

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Carson Communications, L.L.C.	)	File No. EB-02-TS-079
	)	
Operator of Cable Systems in:	)	
	)	
Axtell, Kansas	)	
Baileyville, Kansas	)	
Bern, Kansas	)	
Centralia, Kansas	)	
Denison, Kansas	)	
Effingham, Kansas	)	
Emmett, Kansas	)	
Fairview, Kansas	)	
Frankfort, Kansas	)	
Goff, Kansas	)	
Lake Dabinawa, Kansas	)	
Lakewood Hills, Kansas	)	
Morrill, Kansas	)	
Muscotah, Kansas	)	
Randolph, Kansas	)	
Reserve, Kansas	)	
Summerfield, Kansas	)	
Vermillion, Kansas	)	
Wetmore, Kansas	)	
White Cloud, Kansas	)	
Whiting, Kansas	)	
	)	
Request for Waiver of Section 11.11(a) of the	)	
Commission's Rules	)	

**ORDER**

**Adopted: May 29, 2002**

**Released: May 31, 2002**

By the Chief, Technical and Public Safety Division, Enforcement Bureau:

1. In this *Order*, we grant Carson Communications, L.L.C. ("Carson") temporary, 36-month waivers for each of the 21 above-captioned cable television systems of Section 11.11(a) of the Commission's Rules ("Rules"). Section 11.11(a) requires cable systems serving fewer than 5,000 subscribers from a headend to either provide national level Emergency Alert System ("EAS") messages on all programmed channels or install EAS equipment and provide a video interrupt and audio alert on all

programmed channels and EAS audio and video messages on at least one programmed channel by October 1, 2002.<sup>1</sup>

2. The Cable Act of 1992 added new Section 624(g) to the Communications Act of 1934 (“Act”), which requires that cable systems be capable of providing EAS alerts to their subscribers.<sup>2</sup> In 1994, the Commission adopted rules requiring cable systems to participate in EAS.<sup>3</sup> In 1997, the Commission amended the EAS rules to provide financial relief for small cable systems.<sup>4</sup> The Commission declined to exempt small cable systems from the EAS requirements, concluding that such an exemption would be inconsistent with the statutory mandate of Section 624(g).<sup>5</sup> However, the Commission extended the deadline for cable systems serving fewer than 10,000 subscribers to begin complying with the EAS rules to October 1, 2002, and provided cable systems serving fewer than 5,000 subscribers the option of either providing national level EAS messages on all programmed channels or installing EAS equipment and providing a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel.<sup>6</sup> In addition, the Commission stated that it would grant waivers of the EAS rules to small cable systems on a case-by-case basis upon a showing of financial hardship.<sup>7</sup> The Commission indicated that waiver requests must contain at least the following information: (1) justification for the waiver, with reference to the particular rule sections for which a waiver is sought; (2) information about the financial status of the requesting entity, such as a balance sheet and income statement for the two previous years (audited, if possible); (3) the number of other entities that serve the requesting entity’s coverage area and that have or are expected to install EAS equipment; and (4) the likelihood (such as proximity or frequency) of hazardous risks to the requesting entity’s audience.<sup>8</sup>

3. Carson filed a request for temporary waiver of Section 11.11(a) for each of the 21 captioned cable systems on February 27, 2002.<sup>9</sup> In support of its waiver request, Carson states that each

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<sup>1</sup> 47 C.F.R. § 11.11(a).

<sup>2</sup> Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, § 16(b), 106 Stat. 1460, 1490 (1992). Section 624(g) provides that “each cable operator shall comply with such standards as the Commission shall prescribe to ensure that viewers of video programming on cable systems are afforded the same emergency information as is afforded by the emergency broadcasting system pursuant to Commission regulations ....” 47 U.S.C. § 544(g).

<sup>3</sup> *Amendment of Part 73, Subpart G, of the Commission’s Rules Regarding the Emergency Broadcast System, Report and Order and Further Notice of Proposed Rule Making*, FO Docket Nos. 91-171/91-301, 10 FCC Rcd 1786 (1994) (“*First Report and Order*”), reconsideration granted in part, denied in part, 10 FCC Rcd 11494 (1995).

<sup>4</sup> *Amendment of Part 73, Subpart G, of the Commission’s Rules Regarding the Emergency Broadcast System, Second Report and Order*, FO Docket Nos. 91-171/91-301, 12 FCC Rcd 15503 (1997) (“*Second Report and Order*”).

<sup>5</sup> *Id.* at 15512-13.

<sup>6</sup> *Id.* at 15516-15518.

<sup>7</sup> *Id.* at 15513.

<sup>8</sup> *Id.* at 15513, n. 59.

<sup>9</sup> Carson notes that it also has a cable system in Hiawatha, Kansas, which serves 3,161 subscribers. Carson

of the 21 systems serves small, rural communities and has few subscribers. Specifically, Carson indicates that the 21 systems each serve between eight and 260 subscribers, with 16 of the systems serving fewer than 100 subscribers. Based on price quotes provided by EAS equipment manufacturers, Carson estimates that it would cost approximately \$9,694 to install EAS equipment at each of these systems for a total cost of \$203,574. Carson asserts that this cost will impose a substantial financial hardship on it and provides its financial statements for 2000 and 2001 in support of this assertion. In addition, Carson submits that its subscribers will continue to have ready access to national EAS information from other sources, including its cable systems. In this regard, Carson notes that its subscribers currently have access to national EAS messages on between 45 and 78 percent of their programmed channels. Carson also asserts that its subscribers will have access to EAS information through over-the-air reception of broadcast television and radio stations. Finally, Carson believes that it can fund EAS equipment for the 21 systems in the next three years.

4. Based upon our review of the financial data and other information submitted by Carson, we conclude that temporary, 36-month waivers of Section 11.11(a) for these 21 systems are warranted.<sup>10</sup> In particular, we find that the estimated \$203,574 cost of EAS equipment for these very small cable systems could impose a financial hardship on Carson.

5. We note that the Commission recently amended the EAS rules to permit cable systems serving fewer than 5,000 subscribers to install FCC-certified decoder-only units, rather than both encoders and decoders, if such a device becomes available.<sup>11</sup> Based on comments from equipment manufacturers, we anticipate that such a decoder-only system could result in significant cost savings to small cable systems.<sup>12</sup>

6. Accordingly, **IT IS ORDERED** that, pursuant to Sections 0.111, 0.204(b) and 0.311 of the Rules,<sup>13</sup> Carson Communications, L.L.C. **IS GRANTED** a waiver of Section 11.11(a) of the Rules until October 1, 2005 for each of the 21 captioned cable systems.

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states that it will install EAS equipment at this system by the October 1, 2002 deadline.

<sup>10</sup> The waivers will extend 36 months from October 1, 2002, until October 1, 2005. Carson also specifically requested waiver of the testing and monitoring requirements of the EAS rules for the 21 systems. We clarify that the waivers we are granting also encompass the EAS testing and monitoring requirements.

<sup>11</sup> *Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System*, EB Docket 01-66, FCC 02-64 at ¶ 71 (released February 26, 2002).

<sup>12</sup> One manufacturer estimated that an EAS decoder-only system can reduce the cost by 64% over what a cable operator would spend for an encoder/decoder unit. *Id.* at ¶ 70.

<sup>13</sup> 47 C.F.R. §§ 0.111, 0.204(b) and 0.311.

7. **IT IS FURTHER ORDERED** that Carson Communications, L.L.C. place a copy of this waiver in its system files.

8. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by Certified Mail Return Receipt Requested to counsel for Carson Communications, L.L.C., Christopher C. Cinnamon, Esq., Cinnamon Mueller, 307 North Michigan Avenue, Suite 1020, Chicago, Illinois 60601.

FEDERAL COMMUNICATIONS COMMISSION

Joseph P. Casey  
Chief, Technical and Public Safety Division  
Enforcement Bureau